

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSSTACEY HIGHTOWER
Plaintiff,

v.

CITY OF BOSTON, BOSTON POLICE
COMMISSIONER EDWARD DAVIS, and the
COMMONWEALTH OF MASSACHUSETTS,
Defendants.

No. 08-CV-11955-DJC

**STATEMENT OF UNDISPUTED MATERIAL FACTS SUPPORTING
THE CROSS-MOTION FOR SUMMARY JUDGMENT
BY THE COMMONWEALTH OF MASSACHUSETTS**

| <u>No.</u> | <u>Material Fact</u> | <u>Support</u> |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|
| 1. | Prior to August 2008, plaintiff Stacey Hightower had a Massachusetts Class A firearm license that allowed her “to carry concealed, large capacity firearms.” | First Amended Complaint (doc. no. 3), ¶ 15. |
| 2. | Hightower applied to the Boston Police Commissioner to renew her Class A license on July 9, 2008. | Hightower Dep. Ex. 8; Hightower Dep. Tr. at 68-69, 80-82. |
| 3. | Hightower did not seek a Class B license or a firearm identification card. | Hightower Dep. Ex. 8; Hightower Dep. Tr. at 85. |
| 4. | The Boston Police Commissioner revoked Hightower’s Class A license on August 20, 2008, because she “completed the application form untruthfully” by stating that no charges were pending against her when in fact she was awaiting a hearing on disciplinary charges at that time. | Hightower Dep. Ex. 7; City’s Answer to First Amd. Compl. (doc. no. 3), ¶ 33; Hightower’s SUMF ¶ 27 |
| 5. | Hightower never appealed the revocation of her Class A license. | Hightower Dep. Tr. at 93 |
| 6. | Hightower received the notice of revocation “[o]n or about August 20, 2008.” | Hightower Decl. (doc. no. 28-7), ¶ 23 |
| 7. | Since August 2008, Hightower has not applied as a civilian for any kind of license to carry, including a Class B license or a restricted Class A license. | Hightower Dep. Tr. at 89, 93 |
| 8. | Hightower testified, under oath at her deposition, that she is only interested in obtaining an unrestricted Class A license, and for that reason has not sought a more restrictive license even though she believes she may be able to obtain one. | Hightower Dep. Tr. at 90 |

| <u>No.</u> | <u>Material Fact</u> | <u>Support</u> |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 9. | Hightower testified, under oath at her deposition, that she “would like to have my gun license and be able to carry it concealed,” which is why she has not sought anything license other than a “Class A unrestricted license.” | Hightower Dep. Tr. at 90-91 |
| 10. | During the three-year period ending December 31, 2010, there were 90,865 Class A and Class B firearm licenses issued in the Commonwealth, and only 1900 (or two percent of the total) license-to-carry applications were denied. Half of those denials were due to a determination by the licensing authority that the applicant was not a suitable person; the others were because the applicant was categorically disqualified by statute. | Affidavit of Jason Guida, ¶ 7. |

MARTHA COAKLEY
ATTORNEY GENERAL OF MASSACHUSETTS

/s/ Kenneth W. Salinger
 Kenneth W. Salinger (BBO # 556967)
 Assistant Attorney General, Government Bureau
 Office of the Attorney General
 One Ashburton Place
 Boston, MA 02108
 617.963.2075
 ken.salinger@state.ma.us

April 21, 2011

Certificate of Service

I hereby certify that this document was filed through the Electronic Case Filing (ECF) system and thus copies will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent to those indicated on the NEF as non registered participants on or before April 21, 2011.

/s/ Kenneth W. Salinger .